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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,879	01/16/2004	Bryan Bellafore	8427	8427
3000	7590	07/06/2006	EXAMINER	
CAESAR, RIVISE, BERNSTEIN, COHEN & POKOTILOW, LTD. 11TH FLOOR, SEVEN PENN CENTER 1635 MARKET STREET PHILADELPHIA, PA 19103-2212			SCHATZ, CHRISTOPHER	
			ART UNIT	PAPER NUMBER
			1733	
DATE MAILED: 07/06/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/759,879

Applicant(s)

BELLAFORE ET AL.

Examiner

Christopher T. Schatz

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.  
4a) Of the above claim(s) 5, 6 and 19-30 is/are withdrawn from consideration.  
5) ☒ Claim(s) 13-18 is/are allowed.  
6) ☒ Claim(s) 1-4 is/are rejected.  
7) ☐ Claim(s) 7-12 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 16 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/29/04.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Group I, Species A, drawn to claims 1-4 and 7-18 in the reply filed on April 10, 2006 is acknowledged. Claim 5, 6 and 19-30 are withdrawn from consideration as being drawn to a non-elected invention.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-4 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the claims of U.S. Patent No. 6,517,661. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the

Art Unit: 1733

limitations of claims 1-4 of the instant application are recited in the claims of U.S. Patent No. 6,517,661.

4. Claims 1-4 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the claims of U.S. Patent No. 6,939,428. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the limitations of claims 1-4 of the instant application are recited in the claims of U.S. Patent No. 6,939,428.

5. Claims 1-4 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over the claims of U.S. Patent No. 6,514,373. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the limitations of claims 1-4 of the instant application are recited in the claims of U.S. Patent No. 6,517,661.

### *Claim Rejections - 35 USC § 102*

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Curiel '290.

Curiel discloses a method of applying a plastic label to an outer surface of a container comprising: (a) applying a UV radiation curable adhesive to a transfer member, said adhesive being in a minimally tacky state; (b) causing said transfer member to engage a surface of said

Art Unit: 1733

label to transfer said minimally tacky radiation curable adhesive thereto and to releasably adhesively secure said label to said transfer member by said minimally tacky radiation curable adhesive; (c) adhering said label to said outer surface of said container by said radiation curable adhesive; and (e) directing said container with said label adhered to its outer surface through a irradiating station for irradiating said radiation curable adhesive to enhance the tackiness of said radiation curable adhesive (figures 1 and 2, column 3, lines 5-64, column 4, lines 45 – column 5, line 65).

As to claim 2, Curiel discloses a method wherein after step (b) and before step (c) including the step of directing said label with said minimally tacky UV radiation curable adhesive thereon through a first irradiating station 160 for irradiating said minimally tacky radiation curable adhesive with first radiation to increase the tackiness of said radiation curable adhesive (column 4, line 45 – column 5, line 13).

*Allowable Subject Matter*

8. Claims 7-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 13-18 are allowed.

Curiel is considered the closest prior art. The reference discloses a method as discussed above, and further discloses the use of wherein an irradiating station acts to partially cure said adhesive through a specified thickness. However, the reference does not disclose a method wherein the adhesive is exposed to at least two different wavelength ranges of radiation to

Art Unit: 1733

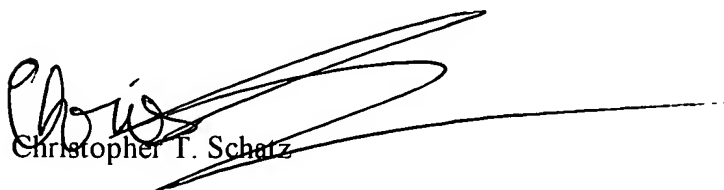
selectively act at different regions through the thickness of the adhesive. No prior art exists that would motivate one of ordinary skill in the art to modify Curiel such that the limitations of claims 7 and 13 are met.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher T. Schatz** whose telephone number is **571-272-1456**. The examiner can normally be reached on 8:00-5:30, Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Christopher T. Schatz



RICHARD CRISPINO  
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